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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,954	03/26/2004	R. Keith Barker	Barker 035105.00001	9832
27863	7590	02/17/2006	EXAMINER	
MCNAIR LAW FIRM, P.A.			DOUGLAS, STEVEN O	
P.O. BOX 10827			ART UNIT	
GREENVILLE, SC 29603-0827			PAPER NUMBER	

3751

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.	Applicant(s)	
	10/810,954	BARKER, R. KEITH	
	Examiner	Art Unit	
	Steven O. Douglas	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4-7 and 15-19 is/are allowed.
- 6) ☒ Claim(s) 1,8-14 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,9 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer'501 et al. in view of McCall'984 et al.

The Comer'501 et al. reference discloses a fuel dispensing system and inherent method (see Fig. 3 and 1) for remote locations comprising a fuel dispenser 50 with plural nozzles and a canopy with solar panels 115, credit card payment kiosk, video imagery 75, fire and smoke detection and a sprinkler systems (not shown, see col. 6, line 3), but does not disclose providing a controlled group of users. The McCall et al. reference discloses another fuel dispensing system that utilizes a membership card (i.e. controlled group established by as, for example, a retail chain, etc..) to unlock or permit access to the fueling systems and determine whether purchaser is eligible to a fuel discount (see col 4, lines 12-20, col. 7, lines 29-49, and col. 10, lines 44-58). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Comer et al. method to provide a controlled group of users through use of a membership card to unlock or permit access to the fueling systems and determine whether purchaser is eligible to a fuel discount.

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Claims 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of McCall'984 et al. and further in view of Bartlett'814 et al., and Struthers et al.

The Comer et al. reference discloses a fuel dispensing system (supra), but does not disclose fuel vapor, impact and carbon monoxide detectors. The Bartlett et al. reference discloses another fuel dispenser having vapor/carbon monoxide detectors 34 and the Struthers reference discloses another dispenser having an impact detector 30 for detecting hazardous conditions and prevent a catastrophic condition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Comer et al. system to have fuel vapor, impact and carbon monoxide detectors in view of the teachings of the Bartlett et al. and Struthers et al. references for detecting hazardous conditions and prevent a catastrophic condition.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of McCall'984 et al. and further in view of the Minerva S860 (cited by Applicant).

The Comer et al. reference discloses a fuel dispenser (supra) , but does not disclose the fire (i.e. flame) detector as being a solar blind, narrow wave length detector-type flame detector. The Minerva S860 reference discloses a flame detector being of the solar blind, narrow wave length detector-type used in gasoline environments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a solar blind, narrow wave length detector-type flame detector as, for example,

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shown by Minerva for the broadly disclosed flame detector of Comer et al. wherein so doing would amount to the mere substitution of one type flame detector for another within the same art field.

Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of McCall'984 et al. and further in view of Hartsell'299 Jr.

The Comer et al. reference discloses a fuel dispenser (supra) including a wireless telephone 105, but does not disclose the phone as having a two-way speaker phone capabilities. The Hartsell Jr. reference discloses another fuel dispenser having a phone with two-way speaker phone capabilities (see col. 8, lines 22-30) that facilitates hands-free use of the communication system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the phone of Comer et al. to have two-way speaker phone capabilities (if not already) in view of the teachings of the Hartsell Jr. reference to facilitate hands-free use of the communication system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Demere and Covington et al. references pertain to other membership-based refueling systems.

Claims 2,4-7 and 15-19 are allowed.

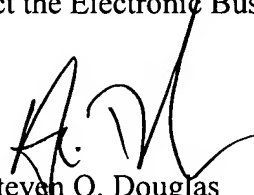
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
2-8-06